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Attorney for Defendant
BENJAMIN WOOD

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NICOLE GREENE, an individual,
Plaintiff,

vs.

BENJAMIN WOOD, an individual; and
FRONTIER AIRLINES, INC., a Foreign
Corporation; DOES 1 through 20,
inclusive; ROE CORPORATIONS, 1
through 20, inclusive;

Defendants.

Case No. 2:20-cv-00818-JAD-NJK

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Exhibit 3 Rule 11 Letter dated May 8, 2020

Exhibit 1

TEXT MESSAGES

Exhibit 1

**Nicole Greene**

+1 805-345-6064



00:44

I'm here, checking in



Okay, I'm gonna start heading down to the lobby

00:46

00:46

Down... Where are you?



Still in the parking garage

00:47

00:49

K. I'm heading to room 1736. I'm gonna change. Meet me there instead



Okay, I'm on my way up

00:53

Did you have fun last night?
Super cool seeing you

11:07

I wish I'd had time to walk you to your car...



Aww, you're so sweet. Yeah, I always have a great time hanging out

with you. I wish we could take things further, but I'll see what I



Enter message



SEND

**Nicole Greene**

+1 805-345-6064

see what I



can do about it 😊

11:21

Friday, February 2, 2018



Hey, how's it going?

13:16

Good, you?

13:17



Pretty good. Just getting ready for work

13:22



Do you even want to be friends with me? Or are you just using me until a better girl comes along?

14:07

I'm at work right now, but where did that come from?

14:16

Do you feel used?



Alright, well I'm not going to bother you at work. But yes, I do

14:27

Ok, then I sincerely apologize for making you feel that way



Enter message



SEND



Nicole Greene

+1 805-345-6064

see what I



can do about it 😊

11:21

Friday, February 2, 2018



Hey, how's it going?

13:16

Good, you?

13:17



Pretty good. Just getting ready for work

13:22



Do you even want to be friends with me? Or are you just using me until a better girl comes along?

14:07

I'm at work right now, but where did that come from?

Do you feel used?

14:16



Alright, well I'm not going to bother you at work. But yes, I do

14:27

Ok, then I sincerely apologize for making you feel that way



Enter message



SEND

**Nicole Greene**

+1 805-345-6064



14:33

Ok, then I sincerely apologize for making you feel that way. I think what you are looking for is not the same as what I am looking for.



What is it that you're looking for?

14:34

14:40

I am now interested in friendship. Or if you'd rather avoid me I understand



No, I don't want to avoid you. I want friendship too

15:15

Thursday, February 8, 2018



Hey, sorry I got upset the other day. I really hope you're doing well. How's your sister and her baby?

14:38

14:40

No worries. My sister is great and very happy being a mom



That's good to hear. So I went to an OBGYN this morning thinking I would get some an-



Enter message



SEND

**Nicole Greene**

+1 805-345-6064



That's good to hear. So I went to an OBGYN this morning thinking I would get some answers, but he said everything seemed normal. So now I'm really discouraged 😞

14:46

Normal is good

15:34



Yeah, that's true. But I was hoping he could give me answers as to why you and I keep having problems

15:38



Putting it bluntly, my hymen is already torn

15:40



If you want to try again, maybe we can use alcohol

19:50

20:30

Nicole, I want to remain just friends.



Benjamin, you've told me multiple times that you've slept with girls you considered "just friends"

20:31

Sunday, February 11, 2018



Enter message



SEND



4G LTE 39% 14:13

**Nicole Greene**

+1 805-345-6064



considered just friends

20:31

Sunday, February 11, 2018



Correct me if I'm wrong, but I feel like you're upset because I accused you of using me and I'm really, really sorry because I feel like I ruined everything. I just want you to understand things from my perspective. You were my first everything, so naturally, I wanted more than just friendship. And



VIEW ALL



11:07

21:28

I think that's a pretty accurate assessment. I was a bit put off by the whole thing, but I am neither angry nor upset.

After reflecting on it, I don't think the way things were is good for you at this point in your life, and maybe not for me either. You are an awesome chick, and I respect you greatly. I think it's probably normal and



Enter message



SEND



14:13

**Nicole Greene**

+1 805-345-6064

**Sun, Feb 11, 2018 11:07**

Correct me if I'm wrong, but I feel like you're upset because I accused you of using me and I'm really, really sorry because I feel like I ruined everything. I just want you to understand things from my perspective. You were my first everything, so naturally, I wanted more than just friendship. And when you told me that night in Las Vegas that you didn't feel the same way, I was disappointed and upset. But I've come to terms with how you feel and I really want things to go back to normal because I don't like the way things are right now. I totally understand that you don't want to be in a relationship and I respect that. I just can't handle you being upset with me and not responding to me because you are so special to me.

**Nicole Greene**

+1 805-345-6064



during your vacation:

22:04

22:06

Hanging out with the woman
and some friends



Thursday, June 28, 2018



I didn't think I'd have to tell you this, but I feel the need to say it because I finally have enough courage to stand up for myself. The past few months, my mental health has been in a really bad place. I have been suffering from anxiety, depression, and suicidal thoughts. I'm not trying to assign



VIEW ALL



For the longest time, I felt so guilty, because once you realized we weren't going to be able to have sex, you started distancing yourself from me and I felt like a failure. Keep in mind, I'm 13 years younger than you and this was my first time in any sort of "relationship" like this. I know I made



Enter message



SEND

**Nicole Greene**

+1 805-345-6064

**Thu, Jun 28, 2018 13:40**

I didn't think I'd have to tell you this, but I feel the need to say it because I finally have enough courage to stand up for myself. The past few months, my mental health has been in a really bad place. I have been suffering from anxiety, depression, and suicidal thoughts. I'm not trying to assign blame, but I know for a fact that this situation has a lot to do with it. I felt ashamed that we weren't able to have sex because I felt like that was all you ever wanted and I was letting you down. I felt even more ashamed for developing feelings for you. I did everything I could to try to make this right, including going to a gynecologist, going on birth control, and encouraging you to get tested for STDs.

Exhibit 2

FRONTIER AIRLINES FLIGHT ITINERARY

Exhibit 2

S 17 1879 COS-PHX 1948 2154 0206 0603 0606 0743/0728 PHX 2103
A D-END: 2209L REPT: 1912L Graduate Tempe Hotel (480)968-1877
S 18 756 PHX-DEN 2207 2337 0130 0130 0157 0440/0425
U D-END: 2352L T.A.F.B.: 8232 DHD: 0118 TRIP
RIG: 0400
Total 1513 0118 2201 3015/2559
:

Crew: CA 406525 Nolita, Patrick FO 425428 Wood, Benjamin

Sick : 23FEB
ActivityStart DateStart TimeEnd DateEnd TimeCredit
Sick 23FEB 10:53 25FEB 22:50 1929

Exhibit 3

RULE 11 LETTER DATED MAY 8, 2020

Exhibit 3



May 8, 2020

Via Electronic Mail and U.S. First Class Mail

PATRICK KANG, ESQ.
Nevada Bar No. 010381
KANG & ASSOCIATES, PLLC
6480 West Spring Mountain Road
Las Vegas, Nevada 89146
pkang@acelawgroup.com

Re: *Nicole Greene v. Benjamin Wood, et al.*
Case No. 2:20-cv-00818-JAD-NJK

Dear Mr. Kang:

This letter serves as a demand to dismiss the causes of action against Mr. Wood filed on January 31, 2020 in violation of the 2-year statute of limitations and Federal Rules of Civil Procedure 11. Under FRCP 11, a court may impose sanctions against a party or attorney when a pleading, written motion, or other paper is (1) filed for an improper purpose; (2) includes claims that are not warranted under existing law or a nonfrivolous argument for extension of the law; or (3) contains factual allegations lacking in evidentiary support.

The central claim that gives rise to the causes of action against Mr. Wood is premised on a “text” describing the parties meeting for dinner in “early” February in Las Vegas at the Downtown Grand Hotel. *See* Compl. §§11-26. The reference to “early” February on the face of the complaint is significant because it conveniently places the alleged misconduct just within the 2-year statute of limitations. However, the text message describing the meeting in Las Vegas at the Grand was sent on January 19-20, 2018. *See* Text Messages.

Specifically, Ms. Greene confirms in the early morning of January 20, 2020 that she is going to Mr. Wood’s hotel room:

BW: K. I’m heading to room 1736. I’m gonna change. Meet me there instead

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NG: Okay, I'm on my way up

Notably, Ms. Greene acknowledges later that day that she had a "great time" as follows:

BW: Did you have fun last night? I wish Id had time to walk you to your car . . .

NG: Aww, you're so sweet. Yeah, I always have a great time hanging out with you. I wish we could talk things further, but I'll see what I can do about it.

There is no question that the Las Vegas meeting referenced in the Complaint occurred on January 20, 2020 making the filing of the Complaint on January 31, 2020 outside of the 2-year statute of limitations. The Frontier Airlines Flight Schedules confirm Mr. Wood did not return to Las Vegas in January or February. Your allegations that Mr. Wood committed torts in early February 2018 is baseless since neither party was in Las Vegas after mid-January 2018.

Please be advised that Mr. Wood will seek sanctions jointly from your firm and Ms. Greene if the causes of action are not dismissed within 21 days. *See Cervantes Orchards & Vineyards, LLC v. Deere & Co.*, 731 F. App'x 570, 573 (9th Cir. 2017) (affirming district court's imposition of Rule 11 sanctions and noting that claims were frivolous where they "were plainly barred by applicable statutes of limitations.").

Instead, the texts in "early" February 2018 make clear that Ms. Greene consented to the night in Las Vegas and wanted more than just friendship. On February 2, 2018, Plaintiff was asking about the status of their relationship:

NG: Do you even want to be friends with me? Or are you just using me until a better girl comes along?

BW: I'm at work right now, but where did that come from? Do you feel used?

NG: Alright, well I'm not going to bother you at work. But yes, I do

BW: Ok, then I sincerely apologize for making you feel that way. I think what you are looking for is not the same as what I am looking for.

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May 8, 2020
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NG: What is it that you're looking for?

BW: I am now interested in friendship or if you rather avoid me I understand

NG: No, I don't want to avoid you. I want friendship too

Indeed, Plaintiff on February 9, 2018 is asking Mr. Wood to meet again for sex:

NG: Hey, sorry I got upset the other day. I really hope you're doing well. How's your sister and baby?

BW: No worries. My sister is great and very happy being a mom

NG: That's good to hear. So I went to an OBGYN this morning thinking I would get some answers, but he said everything seemed normal. So now I'm really discouraged

BW: Normal is good

NG Yeah, that's true. But I was hoping he could give me answers as to why you and I keep having problems. *Putting it bluntly, my hymen is already torn. If you want to try again, maybe we can use alcohol.*

Notwithstanding access to these text messages, you falsely allege Mr. Wood was the one who suggested "alcohol" and deceptively go further by claiming Mr. Wood was "callous" by suggesting she needed to "break her hymen." See Compl. §§21, 24. Your attribution to Mr. Wood when in reality Ms. Greene said it is reckless and egregious conduct.

These text messages make clear that the mid-January night in Las Vegas was consensual and did not result in an assault, battery, or intentional infliction of emotional distress. On February 11, 2018, Ms. Greene explains that she was disappointed when Mr. Wood told her "that night" in Las Vegas that he only wanted to be friends:

Correct me if I'm wrong, but I feel like you're upset because *I accused you of using me* and *I'm really, really sorry because I feel like I ruined everything*. I just want you to understand things from my perspective. *You were my first everything, so naturally, I wanted more than just friendship*. And when you told me *that night*

Patrick Kang, Esq.
May 8, 2020
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in Las Vegas that you didn't feel the same way, I was disappointed and upset. But I've come to terms with how you feel and I really want things to go back to normal because I don't like the way things are right now. ***I totally understand that you don't want to be in a relationship and I respect that. I just can't handle you being upset with me and not responding to me because you are so special to me.***

Many months later, Ms. Greene further reveals on June 28, 2018 that she was in "bad place", "felt ashamed" for "developing feelings" and that she felt like a failure "once ***you realized we weren't going to be able to have sex, you started distancing yourself from me.***"

These texts demonstrate a consensual meeting in Las Vegas in mid-January 2018. Contrary to the central allegation in the Complaint, there are NO texts that describe the parties met in Las Vegas anytime thereafter and especially not in "early" February 2018. In addition, Mr. Wood was not in Las Vegas in February 2018 as evidenced by his flight itinerary.

A review of Ms. Greene's text messages establish that the substantive claims are not well-grounded in fact and are frivolous. While not defined under Rule 11, the word "frivolous" is used to "denote a filing that is both baseless and made without a reasonable and competent inquiry." *Holgate v. Baldwin*, 425 F.3d 671, 676 (9th Cir. 2005). Ms. Greene knew full well that this information was baseless. Specifically, she knew the meeting in Las Vegas occurred in mid-January and not early February and that the relationship was consensual. However, you did not review these text messages and failed in your Rule 11 obligation to conduct a reasonable and competent inquiry into the factual allegations. In addition to being frivolous, the Complaint was filed for the improper purpose of continuing to harass Mr. Wood after both Frontier Airlines and the Metropolitan Police Department founds these allegations lacking.

The purpose of Rule 11 sanctions is to "reduce frivolous claims, defenses or motions, and to deter costly meritless maneuvers." *Massengale v. Ray*, 267 F.3d 1298, 1302 (11th Cir. 2001); *see also Salman v. State of Nevada Comm'n on Judicial Discipline*, 104 F. Supp. 2d 1262, 1270 (D. Nev. 2000) ("The main objective of Rule 11 is to deter baseless filings and curb litigation abuses."). Thus, Rule 11 further provides that "[i]f, after notice and a reasonable opportunity to respond, the court determine that Rule 11(b) has been violated, the court may impose an appropriate sanction on any attorney, law firm, or party that violated the rule or is responsible for the violation." FRCP 11.

Based on the foregoing, there is no dispute the Complaint was filed for an "improper purpose" and that you failed to make a reasonable and competent inquiry into the facts before filing the Complaint. Pursuant to FRCP 11(c)(2), this letter serves as notice that Mr. Wood will

Patrick Kang, Esq.
May 8, 2020
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file a Motion to Dismiss and a Motion for Sanctions on June 1, 2020 if the Complaint is not dismissed within 21 days.

Thank you for your attention to this matter. Feel free to contact me directly should you have questions or concerns.

Yours truly,

Goodman Law Group, P.C

A handwritten signature in blue ink, appearing to read 'Ross C. Goodman'.

Ross C. Goodman, Esq.

RCG/tj
Enclosures as stated.

Ross C. Goodman, Esq.
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520 S. Fourth Street, Second Floor
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Attorney for Defendant
BENJAMIN WOOD

UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA

NICOLE GREENE, an individual,
Plaintiff,

vs.

BENJAMIN WOOD, an individual; and
FRONTIER AIRLINES, INC., a Foreign
Corporation; DOES 1 through 20,
inclusive; ROE CORPORATIONS, 1
through 20, inclusive;

Defendants.

Case No. 2:20-cv-00818-JAD-NJK

**DEFENDANT WOOD'S MOTION
FOR RULE 11 SANCTIONS**

Defendant BENJAMIN WOOD ("Defendant"), by and through undersigned counsel, files
this Motion for Rule 11 sanctions against Plaintiff NICOLE GREENE ("Plaintiff") and her Firm.

///

1 This motion is based upon the following memorandum of points and authorities, the
 2 pleadings and papers on file, the exhibits, and any oral argument of counsel to be made at the time
 3 of the hearing.
 4

5 Dated this ____ day of May 2020.

6 Respectfully submitted,

7 GOODMAN LAW GROUP, P.C.

8 /s/ Ross C. Goodman, Esq.
 9 ROSS C. GOODMAN, ESQ.
 Nevada Bar No. 7722
 520 S. Fourth Street, Second Floor
 Las Vegas, Nevada 89101

10 Attorney for Defendant
 11 BENJAMIN WOOD
 12
 13

14 MEMORANDUM OF POINTS AND AUTHORITIES

15 I.

16 INTRODUCTION

17 The parties met while working for Frontier Airlines and had a consensual overnight stay at
 18 the crew hotel in Las Vegas, Nevada on January 20, 2018. The next morning Plaintiff texts “Aww,
 19 you’re so sweet. Yeah, I always have a great time hanging out with you. I wish we could talk
 20 things further, but I’ll see what I can do about it.” The parties did not physically see each other
 21 after that night in Las Vegas in mid-January 2018. Plaintiff laments to Defendant “You were my
 22 first everything, so naturally, I wanted more than just friendship. And when you told me *that night*
 23 *in Las Vegas* that you didn’t feel the same way, I was disappointed and upset.”

24 The flight itinerary shows that Defendant did not fly back into Las Vegas after that night
 25 through February 2018 and the text messages in February proves that they were not with each
 26 other or in Las Vegas. Nonetheless, Plaintiff and counsel ignored these text messages and filed
 27 the Complaint on January 31, 2018 and misrepresented the date of the Las Vegas trip as “early”
 28

1 February to avoid the two-year statute of limitations.

2 It is evident that this action was designed solely to harass, cause embarrassment and danger
3 to Defendant's reputation. The Complaint is factually baseless, time-barred and filed for an
4 improper purpose warranting Rule 11 sanctions and attorney's fees to remedy this abuse of the
5 legal system.

6 II. 7 STATEMENT OF FACTS

8 Plaintiff filed this lawsuit alleging three causes of action against Defendant Benjamin
9 Wood for: (1) assault; (2) battery; and (3) intentional infliction of emotional distress ("IIED").
10 Plaintiff alleges that the claims giving rise to the action resulted from an overnight stay at a hotel
11 in Las Vegas Nevada. *See* Compl. §§11-26. Plaintiff is a flight attendant and Defendant is a pilot
12 for Frontier Airlines. *See* Compl. §§10-11. They were both in Las Vegas on an "overnight stay"
13 at the Grand Hotel in "early" February. *See* Compl. §§11-12. Defendant went to Plaintiff's hotel
14 room. *See* Compl. §§16.

15 Contrary to these allegations, the text message describing the meeting in Las Vegas at the
16 Grand Hotel was sent on January 19-20, 2018 and not in "early" February. *See* Text Messages
17 attached as Exhibit 1. Plaintiff acknowledged that she a "great time" after leaving Defendant's
18 hotel room:
19
20

21 BW: K. I'm heading to room 1736. I'm gonna change. Meet me
22 there instead

23 NG: Okay, I'm on my way up

24 BW: Did you have fun last night? I wish Id had time to walk you to
25 your car . . .

26 NG: Aww, you're so sweet. Yeah, I always have a great time
27 hanging out with you. I wish we could talk things further, but I'll
see what I can do about it.

Further, the flight itinerary shows that Defendant did not fly back into Las Vegas after that mid-January night through February 2018. *See* Frontier Airlines Flight Itinerary attached as Exhibit 2. and the text messages in February proves that they were not with each other or in Las Vegas. It is no surprise that the text messages in “early” February also confirm the parties were not in Las Vegas. On February 2, 2018, the parties have this exchange:

NG: No, I don't want to avoid you. I want friendship too.

In stark contrast to non-consensual contact, Plaintiff was seeking to be more than just friends. In addition, Plaintiff one week later is proposing sex as reflected in the following text message from February 9, 2018:

BW: No worries. My sister is great and very happy being a mom

1 NG: That's good to hear. So I went to an OBGYN this morning
 2 thinking I would get some answers, but he said everything seemed
 3 normal. So now I'm really discouraged

4 BW: Normal is good

5 NG Yeah, that's true. But I was hoping he could give me answers as
 6 to why you and I keep having problems. ***Putting it bluntly, my
 7 hymen is already torn. If you want to try again, maybe we can use
 8 alcohol.***

9 Despite Plaintiff referencing "hymen" and "alcohol", Plaintiff falsely alleges that
 10 Defendant suggested that Defendant drink alcohol and "callously" responded that he needed to
 11 "break her hymen." See Compl. §§21, 24.

12 On February 11, 2018, Plaintiff laments her relationship with Defendant is only as friends
 13 and nothing more involved:

14 Correct me if I'm wrong, but I feel like you're upset because ***I***
 15 ***accused you of using me*** and ***I'm really, really sorry because I feel***
 16 ***like I ruined everything.*** I just want you to understand things from
 17 my perspective. ***You were my first everything, so naturally, I***
 18 ***wanted more than just friendship.*** And when you told me ***that night***
 19 ***in Las Vegas that you didn't feel the same way,*** I was disappointed
 20 and upset. But I've come to terms with how you feel and I really
 21 want things to go back to normal because I don't like the way things
 22 are right now. ***I totally understand that you don't want to be in a***
 23 ***relationship and I respect that. I just can't handle you being upset***
 24 ***with me and not responding to me because you are so special to***
 25 ***me.***

26 Many months later, Plaintiff further reveals on June 28, 2018 that she was in "bad place",
 27 "felt ashamed" for "developing feelings" and that she felt like a failure "once ***you realized we***
 28 ***weren't going to be able to have sex, you started distancing yourself from me.***"

29 Because the Complaint was time-barred and the substantive allegations false, Defendant
 30 served Plaintiff's counsel with a Rule 11 letter on May 8, 2020 demanding dismissal of the
 31 Complaint. Nonetheless, Plaintiff and counsel refused to dismiss the Complaint.

III. ARGUMENT

A. Legal Standard

Rule 11(b) provides, in relevant part:

By presenting to the court a pleading, written motion, or other paper – whether by signing, filing, submitting, or later advocating it – an attorney or unrepresented party certifies that to the best of the person’s knowledge, information, and belief, formed after an inquiry reasonable under the circumstances: (1) it is not being presented for any improper purpose, such as to harass, cause unnecessary delay, or needlessly increase the cost of litigation; (2) the claims, defenses, and other legal contentions are warranted by existing law or by a nonfrivolous argument for extending, modifying, or reversing existing law or for establishing new law; [and] (3) the factual contentions have evidentiary support or, if specifically so identified, will likely have evidentiary support after a reasonable opportunity for further investigation or discovery[.]

Fed. R. Civ. P. 11(b)(1)-(3).

“Rule 11 is intended to deter baseless filings in district court and imposes a duty of ‘reasonable inquiry’ so that anything filed with the court is well grounded in fact, legally tenable, and not interposed for any improper purpose.” *Islamic Shura Council of S. Cal. v. Federal Bureau of Investigation*, 757 F.3d 870, 872 (9th Cir. 2014) (per curiam) (internal quotation marks omitted). “One of the fundamental purposes of Rule 11 is to reduce frivolous claims, defenses or motions and to deter costly meritless maneuvers, [thereby] avoid[ing] delay and unnecessary expense in litigation.” *Christian v. Mattel, Inc.*, 286 F.3d 1118, 1127 (9th Cir. 2002) (internal quotation marks omitted; first alteration added).

“Among other grounds, a district court may impose Rule 11 sanctions if a paper filed with the court is for an improper purpose, or if it is frivolous.” *G.C. & K.B. Invs., Inc. v. Wilson*, 326 F.3d 1096, 1109 (9th Cir. 2003). “Absent exceptional circumstances, a law firm must be held jointly responsible for a violation committed by its partner, associate, or employee.” Fed. R. Civ.

1 P. 11(c)(1). When “a complaint is the primary focus of Rule 11 proceedings, a district court must
 2 conduct a two-prong inquiry to determine (1) whether the complaint is legally or factually baseless
 3 from an objective perspective, and (2) if the attorney has conducted a reasonable and competent
 4 inquiry before signing and filing it.” *Holgate v. Baldwin*, 425 F.3d 671, 676 (9th Cir. 2005)
 5 (internal quotation marks omitted). “As shorthand for this test, [courts] use the word ‘frivolous’ to
 6 denote a filing that is both baseless and made without a reasonable and competent inquiry.” *Id.*
 7 (internal quotation marks and emphasis omitted). “[T]he mere existence of one non-frivolous claim
 8 in a complaint does not immunize it from Rule 11 sanctions.” *Id.* at 677 (internal quotation marks
 9 omitted).

11 **B. All of Plaintiff’s Claims are Time-Barred**

12 The claim for assault, battery and intentional infliction of emotional distress (“IIED”) is
 13 barred by the two-year statute of limitations.¹ See NRS 11.190(4)(c). Specifically, NRS
 14 11.190(4)(c) applies to “an action for libel, slander, **assault, battery**, false imprisonment or
 15 seduction and NRS 11.190(4)(d) applies to “an action to recover damages for **injuries to a person**
 16 or for the death of a person caused by the **wrongful act** or neglect of another.”

17 Further, a statute-of-limitations defense, if “apparent from the face of the complaint,” may
 18 properly be raised in a motion to dismiss. *Conerly v. Westinghouse Elec. Corp.*, 623 F.2d 117,
 19 119 (9th Cir.1980). “We accept as true all well-pleaded allegations of material fact” but are not
 20 “required to accept as true allegations that contradict exhibits attached to the Complaint or matters
 21 properly subject to judicial notice, or allegations that are merely conclusory, unwarranted
 22 deductions of fact, or unreasonable inferences.” *Daniels–Hall v. Nat’l Educ. Ass’n*, 629 F.3d 992,
 23 998 (9th Cir.2010).

24 Plaintiff alleges that the claims giving rise to this action resulted from an overnight stay at
 25 a hotel in Las Vegas Nevada in “early” February is flatly contradicted by her text messages. The
 26

27 ¹ The causes of action against Defendant Wood is time-barred and will be the subject of a motion to dismiss for failure
 to state a claim under Federal Rule of Civil Procedure 12(b)(6).

1 text messages describing the overnight stay occurred on January 19-20, 2018. Nonetheless,
2 Plaintiff deliberately changed the date from the known mid-January timeframe to “early” February
3 to avoid the obvious problem that the Complaint filed on January 31, 2020 was right inside of the
4 statute of limitation expiring resulting in a baseless and frivolous filing.
5

6 The text messages clearly show that the parties engaged in consensual contact on January
7 20, 2018. Plaintiff’s counsel should have undertaken a reasonable inquiry to determine these
8 claims were time-barred by the two-year statute of limitations. *See Cervantes Orchards &*
9 *Vineyards, LLC v. Deere & Co.*, 731 F. App’x 570, 573 (9th Cir. 2017) (affirming district court’s
10 imposition of Rule 11 sanctions and noting that claims were frivolous where they “were plainly
11 barred by applicable statutes of limitations.”). Here, it cannot be disputed that the Complaint is
12 not well grounded in fact and was made without reasonable and competent inquiry prior to filing.

13 Under the circumstances, this Court should find Plaintiff’s filing of this Complaint was
14 frivolous and filed for an improper purpose of harassing and embarrassing Defendant, thus
15 warranting sanctions against Plaintiff and her firm jointly. *See G.C. & K.B. Investments*, 326 F.3d
16 at 1109 (“a district court may impose Rule 11 sanctions if a paper filed with the court is for an
17 improper purpose, or if it is frivolous”); Fed. R. Civ. P. 11(c)(1) (“Absent exceptional
18 circumstances, a law firm must be held jointly responsible for a violation committed by its partner,
19 associate, or employee.”).

IV.

CONCLUSION

Based on the foregoing, Defendant requests the Court enter an order of sanctions against Plaintiff and her firm and award reasonable attorney's fees, costs and expenses incurred in filing this motion.

Dated this ____ day of May 2020.

Respectfully submitted,

GOODMAN LAW GROUP, P.C.

/s/ Ross C. Goodman, Esq.
ROSS C. GOODMAN, ESQ.
Nevada Bar No. 7722
520 S. Fourth Street, Second Floor
Las Vegas, Nevada 89101

Attorney for Defendant
BENJAMIN WOOD

CERTIFICATE OF SERVICE

I hereby certify that on the ____ day of May 2020 I electronically filed the above and foregoing **Defendant's Motion for Rule 11 Sanctions** using the CM/ECF system which will send notice of electronic filing to all CM/EFC registrants.

/s/ Tiffanie Johannes
Employee of Goodman Law Group, P.C.

Exhibit 1

Exhibit 1



4G LTE 40% 14:12

< **Nicole Greene**
+1 805-345-6064



00:44

I'm here, checking in



Okay, I'm gonna start heading
down to the lobby

00:46

00:46

Down... Where are you?



Still in the parking garage

00:47

00:49

K. I'm heading to room 1736.
I'm gonna change. Meet me
there instead



Okay, I'm on my way up

00:53

Did you have fun last night?
Super cool seeing you

11:07

I wish I'd had time to walk you
to your car...



Aww, you're so sweet. Yeah,
I always have a great time
hanging out

with you. I wish we could
take things further, but I'll
see what I



Enter message



SEND



4G LTE 39% 14:12



Nicole Greene

+1 805-345-6064



see what I

can do about it 😊

11:21

Friday, February 2, 2018



Hey, how's it going?

13:16

Good, you?

13:17



Pretty good. Just getting ready for work

13:22



Do you even want to be friends with me? Or are you just using me until a better girl comes along?

14:07

I'm at work right now, but where did that come from?

Do you feel used?

14:16



Alright, well I'm not going to bother you at work. But yes, I do

14:27

Ok, then I sincerely apologize for making you feel that way



Enter message



SEND



4G LTE 39% 14:12



Nicole Greene

+1 805-345-6064



see what I

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11:21

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Ok, then I sincerely apologize for making you feel that way



Enter message



SEND

**Nicole Greene**

+1 805-345-6064



14:33

Ok, then I sincerely apologize for making you feel that way. I think what you are looking for is not the same as what I am looking for.



What is it that you're looking for?

14:34

14:40

I am now interested in friendship. Or if you'd rather avoid me I understand



No, I don't want to avoid you. I want friendship too

15:15

Thursday, February 8, 2018



Hey, sorry I got upset the other day. I really hope you're doing well. How's your sister and her baby?

14:38

14:40

No worries. My sister is great and very happy being a mom



That's good to hear. So I went to an OBGYN this morning thinking I would get some an-



Enter message



SEND

**Nicole Greene**

+1 805-345-6064



That's good to hear. So I went to an OBGYN this morning thinking I would get some answers, but he said everything seemed normal. So now I'm really discouraged 😞

14:46

Normal is good

15:34



Yeah, that's true. But I was hoping he could give me answers as to why you and I keep having problems

15:38



Putting it bluntly, my hymen is already torn

15:40



If you want to try again, maybe we can use alcohol

19:50

Nicole, I want to remain just friends.

20:30



Benjamin, you've told me multiple times that you've slept with girls you considered "just friends"

20:31

Sunday, February 11, 2018



Enter message



SEND



4G LTE 39% 14:13

**Nicole Greene**

+1 805-345-6064



considered just friends

20:31

Sunday, February 11, 2018



Correct me if I'm wrong, but I feel like you're upset because I accused you of using me and I'm really, really sorry because I feel like I ruined everything. I just want you to understand things from my perspective. You were my first everything, so naturally, I wanted more than just friendship. And



VIEW ALL



11:07

21:28

I think that's a pretty accurate assessment. I was a bit put off by the whole thing, but I am neither angry nor upset.

After reflecting on it, I don't think the way things were is good for you at this point in your life, and maybe not for me either. You are an awesome chick, and I respect you greatly. I think it's probably normal and



Enter message



SEND



4G



39%



14:13

**Nicole Greene**

+1 805-345-6064



Sun, Feb 11, 2018 11:07

Correct me if I'm wrong, but I feel like you're upset because I accused you of using me and I'm really, really sorry because I feel like I ruined everything. I just want you to understand things from my perspective. You were my first everything, so naturally, I wanted more than just friendship. And when you told me that night in Las Vegas that you didn't feel the same way, I was disappointed and upset. But I've come to terms with how you feel and I really want things to go back to normal because I don't like the way things are right now. I totally understand that you don't want to be in a relationship and I respect that. I just can't handle you being upset with me and not responding to me because you are so special to me.

**Nicole Greene**

+1 805-345-6064



during your vacation:

22:04

22:06

Hanging out with the woman
and some friends



Thursday, June 28, 2018



I didn't think I'd have to tell you this, but I feel the need to say it because I finally have enough courage to stand up for myself. The past few months, my mental health has been in a really bad place. I have been suffering from anxiety, depression, and suicidal thoughts. I'm not trying to assign



VIEW ALL



For the longest time, I felt so guilty, because once you realized we weren't going to be able to have sex, you started distancing yourself from me and I felt like a failure. Keep in mind, I'm 13 years younger than you and this was my first time in any sort of "relationship" like this. I know I made



Enter message



SEND

< **Nicole Greene**
+1 805-345-6064



Thu, Jun 28, 2018 13:40

I didn't think I'd have to tell you this, but I feel the need to say it because I finally have enough courage to stand up for myself. The past few months, my mental health has been in a really bad place. I have been suffering from anxiety, depression, and suicidal thoughts. I'm not trying to assign blame, but I know for a fact that this situation has a lot to do with it. I felt ashamed that we weren't able to have sex because I felt like that was all you ever wanted and I was letting you down. I felt even more ashamed for developing feelings for you. I did everything I could to try to make this right, including going to a gynecologist, going on birth control, and encouraging you to get tested for STDs.

Exhibit 2

Exhibit 2

January Schedule

Benjamin Wood(425428)

Last Updated Feb 5, 2018 17:18:12 MST

| | | |
|----|----|-----------|
| MO | 01 | MCO |
| TU | 02 | DEN |
| WE | 03 | |
| TH | 04 | |
| FR | 05 | |
| SA | 06 | D3346BSFO |
| SU | 07 | MCO |

Crew: CA 408767 Kennedy, John FO 425428 Wood, Benjamin

| | | |
|----|----|-----------|
| MO | 08 | N/L |
| TU | 09 | |
| WE | 10 | |
| TH | 11 | |
| FR | 12 | PAY |
| FR | 12 | D3170HATL |
| SA | 13 | SLC |
| SU | 14 | DEN |

| | | |
|----|----|-----------|
| MO | 15 | |
| TU | 16 | |
| WE | 17 | |
| TH | 18 | |
| FR | 19 | D3206DLAS |
| SA | 20 | CVG |
| SU | 21 | PAY |

Crew: CA 406517 Dolven, Robert FO 425428 Wood, Benjamin

| | | |
|----|----|----------|
| MO | 22 | PAY |
| TU | 23 | |
| WE | 24 | |
| TH | 25 | |
| FR | 26 | D3128ATL |
| SA | 27 | DCA |
| SU | 28 | DEN |

| | | |
|----|----|--|
| MO | 29 | |
| TU | 30 | |

Block Credit YTD Days Off

Schedule Options:

Operates: Dec 30 Only

| | | | | | | |
|--------------------------|----------------|-----------------|------|------|------|------|
| D3557 : 30DEC | ONLY ON SAT | BSE REPT: 1350L | GRNT | OA | TBLK | TDHD |
| Base/Equip: DEN/319 | CA01FO01 | | | | | |
| DY DD DH C | FLTNO DPS-ARS | DEPL | ARRL | BLKT | | |
| SA 30 * 777 | DEN-LAS | 1442 | 1540 | 0158 | | |
| SA 30 1586 | LAS-TPA | 1850 | 0156 | 0406 | 0604 | |
| D-END: 0211L REPT: 1845L | | | | | | |
| SU 31 1239 | TPA-MSP | 2100 | 2330 | 0330 | | |
| D-END: 2345L REPT: 1017L | | | | | | |
| MO 01 1640 | MSP-MCO | 1146 | 1613 | 0327 | | |
| D-END: 1628L REPT: 0552L | | | | | | |
| TU 02 157 | MCO-DSM | 0630 | 0836 | 0306 | | |
| TU 02 157 | DSM-DEN | 0959 | 1029 | 0130 | | |
| D-END: 1044L | T.A.F.B.: 6854 | | | | | |
| Total: 1737 | | | | | | 0000 |

Operates: Jan 6 Only

| | | | | | | |
|--------------------------|----------------|-----------------|------|------|------|------|
| D3346B : 06JAN | ONLY ON SAT | BSE REPT: 0649L | GRNT | OA | TBLK | TDHD |
| Base/Equip: DEN/319 | CA01FO01 | | | | | |
| DY DD DH C | FLTNO DPS-ARS | DEPL | ARRL | BLKT | | |
| SA 06 N | NTR DEN-DEN | 0649 | 0649 | 0000 | | |
| SA 06 657 | DEN-SFO | 0946 | 1130 | 0244 | 0244 | |
| D-END: 1145L REPT: 2140L | | | | | | |
| MO 08 1740 | SFO-MCO | 0250 | 1039 | 0449 | | |
| D-END: 1054L REPT: 0815L | | | | | | |
| TU 09 681 | MCO-DEN | 1147 | 1331 | 0419 | | |
| D-END: 1346L | T.A.F.B.: 7857 | | | | | |
| Total: 0733 | | | | | | 0419 |

Operates: Jan 12 Only

| | | | | | | |
|--------------------------|---------------|-----------------|------|------|------|------|
| D3170H : 12JAN | ONLY ON FRI | BSE REPT: 0824L | GRNT | OA | TBLK | TDHD |
| Base/Equip: DEN/319 | FO01 | | | | | |
| DY DD DH C | FLTNO DPS-ARS | DEPL | ARRL | BLKT | | |
| FR 12 1158 | DEN-CVG | 0919 | 1351 | 0232 | | |
| FR 12 9205 | CVG-ATL | 1531 | 1736 | 0205 | 0437 | |
| D-END: 1751L REPT: 1003L | | | | | | |
| SA 13 1561 | ATL-SLC | 1043 | 1247 | 0404 | | |
| D-END: 1302L REPT: 0430L | | | | | | |
| SU 14 * 572 | SLC-DEN | 0509 | 0635 | 0126 | | |
| SU 14 573 | DEN-SLC | 0932 | 1055 | 0123 | | |
| Total: 0404 | | | | | | 0039 |

Operates: Jan 12 Only

| | | | | | | |
|--------------------------|---------------|-----------------|------|------|------|------|
| D3170H : 12JAN | ONLY ON FRI | BSE REPT: 0824L | GRNT | OA | TBLK | TDHD |
| Base/Equip: DEN/319 | FO01 | | | | | |
| DY DD DH C | FLTNO DPS-ARS | DEPL | ARRL | BLKT | | |
| FR 12 1158 | DEN-CVG | 0919 | 1351 | 0232 | | |
| FR 12 9205 | CVG-ATL | 1531 | 1736 | 0205 | 0437 | |
| D-END: 1751L REPT: 1003L | | | | | | |
| SA 13 1561 | ATL-SLC | 1043 | 1247 | 0404 | | |
| D-END: 1302L REPT: 0430L | | | | | | |
| SU 14 * 572 | SLC-DEN | 0509 | 0635 | 0126 | | |
| SU 14 573 | DEN-SLC | 0932 | 1055 | 0123 | | |
| Total: 0404 | | | | | | 0039 |

Operates: Jan 12 Only

| | | | | | | |
|--------------------------|---------------|-----------------|------|------|------|------|
| D3170H : 12JAN | ONLY ON FRI | BSE REPT: 0824L | GRNT | OA | TBLK | TDHD |
| Base/Equip: DEN/319 | FO01 | | | | | |
| DY DD DH C | FLTNO DPS-ARS | DEPL | ARRL | BLKT | | |
| FR 12 1158 | DEN-CVG | 0919 | 1351 | 0232 | | |
| FR 12 9205 | CVG-ATL | 1531 | 1736 | 0205 | 0437 | |
| D-END: 1751L REPT: 1003L | | | | | | |
| SA 13 1561 | ATL-SLC | 1043 | 1247 | 0404 | | |
| D-END: 1302L REPT: 0430L | | | | | | |
| SU 14 * 572 | SLC-DEN | 0509 | 0635 | 0126 | | |
| SU 14 573 | DEN-SLC | 0932 | 1055 | 0123 | | |
| Total: 0404 | | | | | | 0039 |

Operates: Jan 12 Only

SU 14 578 SLC-DEN 1134 1249 0115 0404 0446
 D-END: 1304L T.A.F.B.: 5240 TRIP RIG: 0023
 Total: 1245 0000

Crew:

FO 425428 Wood, Benjamin

D3206D : 19JAN ONLY ON FRI
 Base/Equip: DEN/319 FO01
 DY DD DH C FLTNO DPS-ARS DEPL ARRL BLKT GRNT OA TBLK TDHD
 FR 19 N NTR DEN-DEN 1003 0000 0155
 FR 19 * 777 DEN-LAS 1158 1257 0159 0231
 FR 19 1144 LAS-SAT 1528 2016 0248 0047
 FR 19 1145 SAT-LAS 2103 2144 0241
 D-END: 2159L REPT: 0942L
 SA 20 1686 LAS-BNA 1025 1604 0339
 SA 20 * 1686 BNA-MCO 1641 1942 0201 0110
 SA 20 1616 MCO-CVG 2052 2252 0200
 D-END: 2307L REPT: 1138L
 SU 21 649 CVG-DEN 1245 1355 0310
 SU 21 N DUT DEN-DEN 1700 1907 0000
 D-END: 1907L T.A.F.B.: 5704
 Total: 1818 0000

Crew:

FO 425428 Wood, Benjamin

PAY : 21JAN

ActivityStart DateStart TimeEnd DateEnd TimeCredit
 PAY 21JAN 20:00 23JAN 07:11 0339

D3128 : 26JAN MON FRI SAT
 Base/Equip: DEN/319 CA01FO01
 DY DD DH C FLTNO DPS-ARS DEPL ARRL BLKT GRNT OA TBLK TDHD
 FR 26 657 DEN-SFO 0744 0928 0244 0056
 FR 26 1532 SFO-ATL 1024 1742 0418
 D-END: 1757L REPT: 0730L
 SA 27 * 429 ATL-DEN 0808 0925 0317 Westin
 SA 27 546 DEN-DCA 1126 1627 0301 0201
 D-END: 1642L REPT: 0615L
 SU 28 543 DCA-DEN 0655 0928 0433 Sheraton
 D-END: 0943L T.A.F.B.: 5054
 Total: 1753 0000

Crew:

CA 403858 Smith, Tom FO 425428 Wood, Benjamin

S 17 1879 COS-PHX 1948 2154 0206 0606 0743/0728 PHX 2103
A D-END: 2209L REPT: 1912L Graduate Tempe Hotel (480)968-1877
S 18 756 PHX-DEN 2207 2337 0130 0130 0157 0440/0425
U D-END: 2352L T.A.F.B.: 8232 DHD: 0118 TRIP
RIG: 0400

Total: 1513 0118 2201 3015/2559

Crew:

CA 406525 Nolta, Patrick FO 425428 Wood, Benjamin

Sick : 23FEB

ActivityStart DateStart TimeEnd DateEnd TimeCredit

Sick 23FEB 10:53 25FEB 22:50 1929